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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/806,776 | 07/09/2001 | Heinrich Hummel | 449122002600 | 5950 |
| 25227 | 7590 | 09/21/2005 | | |
| MORRISON & FOERSTER LLP 1650 TYSONS BOULEVARD SUITE 300 MCLEAN, VA 22102 | | | | |
| | | | EXAMINER HOANG, THAI D | |
| | | | ART UNIT 2667 | PAPER NUMBER |

DATE MAILED: 09/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/806,776

Applicant(s)

HUMMEL, HEINRICH

Examiner

Thai D. Hoang

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The statement "route-specific forwarding information item" and "new route-specific forwarding information item" recited in claims 2-7 are confusing. It is not clear what is meant by "route-specific forwarding information" and "new route-specific forwarding information". Moreover, they are confusing with a "forwarding information item" and a "new forwarding information item" recited in the independent claim 1.

The statements "the route-specific forwarding information item" in claim 3, line 2 found no basic. Previous paragraphs did not define what route-specific forwarding information item; therefore, it is grammatically incorrect.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-14 are rejected under 35 U.S.C. 102(b) as being unpatentable by

Spiegel et al, US Patent No. 5,649,108, hereafter referred to as Spiegel.

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Regarding claims 1-3, 7 and 14, Spiegel discloses a method and system called "Combined progressive and source routing control for connection-oriented communications networks". The method comprising:

determining routes for transmission from a source node (A) to a destination node (G), fig. 1, fig. 4, steps 40-41, col. 2, lines 39-41 and 62-64, col. 3, lines 32-37 (determining routes to destination network nodes of connection destinations for the network nodes)

Each node prepares a connection setup packet (As illustrated in FIG. 3) in response to receipt of a request from a host terminal or an adjacent node. At each intermediate node connection setup packets are received via incoming node interfaces and through the switch fabric to switch controller 12 where the packets are updated and their contents are examined for deciding which output port to choose for a connection to be established in accordance with the routing table 13. The forwarding table 20 at each line interface 10 consists of entries each mapping an incoming VCI to an output port identifier and an outgoing VCI. Once an output port has been chosen for a connection setup packet received through an incoming line interface, the switch controller updates the forwarding table of that line interface, so that cells can subsequently be routed through the switch fabric to the outgoing line interface of the chosen output port and transported across the network to the destination; fig 2, 7a-7d, fig. 4, steps 43-49, col. 6, lines 9-29, col. 7, lines 1-27 (allocating, in the network nodes, an allocation rule by means of the routes determined, by means of which rule a forwarding information item

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is allocated both to a link leading in the direction of the destination node and to a new forwarding information item for each destination network node)

The setup packets (fig. 3) are forwarded to the destination node (fig. 4, step 50) through intermediate node(s). At each node along the path the information stored in the setup packets is read out and updated; col. 5, line 63 – col. 6, line 36; col. 7, lines 1-27, algorithm col. 10, line 21 – col. 12, line 38 (transmitting a setup message from an originating network node to the destination network nodes for preparing a subsequent transmission of data, such that a forwarding information item included in the setup message is read out, and using the allocation rule, the setup message is forwarded via a link allocated to this forwarding information item in this network node, after replacement of this forwarding information item by a new forwarding information item allocated to the former information item).

Regarding claims 4-5 and 9-10, as best understood, Spiegel discloses each node comprises a forwarding table 10, routing table 13, and controller 12 to calculate a shortest path and update the information stored in the setup packets and in the routing table, fig. 2-3, col. 5, line 63 – col. 6, line 36, algorithm col. 10, line 21 – col. 12, line 38 (in one of the network nodes a new route-specific forwarding information item allocated to a route-specific forwarding information item is determined by access to a translation table in which a new route-specific forwarding information item is included for each permissible route-specific forwarding information item; wherein during the access to the translation table, the permissible route-specific forwarding information item is used as a table index).

Regarding claims 6 and 11, as best understood, Spiegel discloses the setup packet includes a plurality of parameters (fig. 3). The node comprises a forwarding table 10, routing table 13, and controller 12 calculates a shortest path and update the information stored in the setup packet and in the routing table, fig. 2-3, col. 5, line 63 – col. 6, line 36, algorithm col. 10, line 21 – col. 12, line 38 (wherein, in one of the network nodes, one of a number of translation tables set up in the network node is selected depending on a connection parameter included in the setup message, and a new route-specific forwarding information item is determined by means of the selected translation table)

Regarding claim 8, the forwarding table 10, routing table 13, and controller 12 in the network disclosed by Spiegel are inherently based on structure (topology) of the network; algorithm col. 10, line 21 – col. 12, line 38 (wherein the allocation rule is determined and set up in each network node based on information on the structure of the communication network).

Regarding claim 12 and 13, as best understood, the system disclosed by Spiegel is an ATM system; therefore, the setup packet is inherently an ATM packet and transmitted in an ATM network; col. 1, lines 9-13, col. 5, lines 37-47 (wherein the connection setup takes place in an ATM network; wherein a single ATM cell is transmitted as a setup message.)

Response to Arguments

Applicant's arguments filed 06/28/2005 have been fully considered but they are not persuasive.

Pages 6-7 of the remarks, Applicant argues "Spiegel only decides (by means of a cost criterion) via which link this setup message is to be forwarded after a setup message to a network node is received." Examiner respectfully disagrees. Applicant is direct to col. 5, line 63-col. 6, line 22, wherein, Spiegel discloses "[E]ach node prepares a connection setup packet in response to receipt of a request from a host terminal or an adjacent node." The setup message is not "to be forwarded after a setup message to a network node is received" as shown in the remarks.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

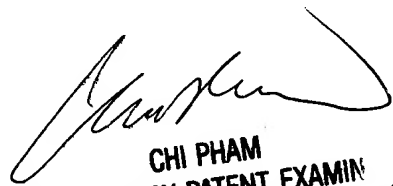
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thai D. Hoang whose telephone number is (571) 272-3184. The examiner can normally be reached on Monday-Friday 10:00am-6:30pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi Pham can be reached on (571) 272-3179. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Thai Hoang


CHI PHAM
SUPERVISORY PATENT EXAMINER
TECHNICAL CENTER 005 9/19/05